

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:)	
)	
JEFFERSON COUNTY, ALABAMA,)	Case No. 11-05736-9
a political subdivision of the State of)	
Alabama,)	Chapter 9 Proceeding
)	
Debtor.)	

MOTION FOR CLARIFICATION
REGARDING THE AUTOMATIC STAY

COMES NOW Mike Hale, in his official capacity as Sheriff of Jefferson County, Alabama (“Sheriff Hale”), and respectfully requests clarification regarding the extent of the automatic stay. Specifically, Sheriff Hale requests clarification of whether litigation against Sheriff Hale and Jefferson County Deputy Sheriffs are included within the parameters of the automatic stay afforded under 11 U.S.C. §§ 362 and 922. Sheriff Hale states as follows:

1. Jefferson County filed its bankruptcy petition on November 9, 2011, and thereafter filed Notices of Bankruptcy in the litigation pending against it. In each Notice of Bankruptcy, Jefferson County advised the relevant court of the automatic stay afforded Jefferson County pursuant to 11 U.S.C. §§ 362 and 922.

2. Pursuant to 11 U.S.C. § 922, the petition operates as a stay of “the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against an officer or inhabitant of the debtor that seeks to enforce a claim against the debtor.”

3. Sheriff Hale is the duly elected Sheriff of Jefferson County, Alabama. He and various Jefferson County Deputy Sheriffs are defendants in a number of pending lawsuits involving actions and alleged actions taken in the course of their employment.

4. Under Alabama law, a Sheriff is a state official. *See Marsh v. Butler County, Ala.*, 268 F.3d 1014, 1028 (11th Cir. 2001). Deputy Sheriffs are also state officials and are considered a Sheriff's alter-ego. *Carr v. City of Florence*, 916 F.2d 1521, 1525 (11th Cir. 1990). For those reasons, a Sheriff and Deputy Sheriffs are afforded sovereign immunity under the 11th Amendment to United States Constitution and state-actor immunity under the Alabama Constitution. *See, e.g., Marsh v. Butler County, Ala.*, 268 F.3d 1014, 1028 (11th Cir. 2001); *Carr v. City of Florence*, 916 F.2d 1521, 1525 (11th Cir. 1990); *Karrick v. Johnson*, 659 So.2d 77, 79 (Ala. 1995); *Alexander v. Hatfield*, 652 So.2d 1142, 1143-44 (Ala. 1994); *Drain v. Odom*, 631 So.2d 971, 972 (Ala. 1994).

5. At the same time, the county funds the operations of the Sheriff. *See Ala. Code* § 11-8-3(c) (1975) (in adopting its annual budget, the county commission must include the reasonable expenditures for the operation of the sheriff and the county jail); *Ala. Code* § 36-22-18 (1975) ("The county commission shall also furnish the sheriff with the necessary quarters, books, stationary, office equipment, supplies, postage and other conveniences and equipment, including automobiles and necessary repairs, maintenance and all expenses incidental thereto, as are reasonably needed for the proper and efficient conduct of the affairs of the sheriff's office.").

6. Sheriff Hale and Jefferson County Deputy Sheriffs are not employees of Jefferson County, and the Jefferson County Sheriff's Office is not considered a

department of Jefferson County. Nevertheless, Sheriff Hale receives his funding from Jefferson County, which includes the funding to pay for any adverse verdict rendered against Sheriff Hale or a Jefferson County Deputy Sheriff (for actions taken in the course of his employment). Furthermore, Sheriff Hale does not receive funding from the State of Alabama and does not carry insurance. Accordingly, an adverse verdict rendered against Sheriff Hale or a Jefferson County Deputy Sheriff (for actions taken in the course of his employment) may adversely impact the coffers of Jefferson County and an effort to collect would be an effort to collect against Jefferson County. Sheriff Hale understands that Jefferson County takes the position that litigation against Sheriff Hale or a Jefferson County Deputy Sheriff (for actions taken in the course of his employment) may impact the coffers of Jefferson County and an effort to collect would be an effort to collect against Jefferson County and, as such, Sheriff Hale and Jefferson County Deputy Sheriffs (sued for actions taken in the course of their employment) are included within the parameters of the automatic stay.

7. Based on the foregoing, Sheriff Hale respectfully requests clarification of the extent of the automatic stay afforded under 11 U.S.C. §§ 362 and 922. Specifically, Sheriff Hale requests clarification of whether Sheriff Hale and Jefferson County Deputy Sheriffs (sued for actions taken in the course of their employment) are included within the parameters of the automatic stay.

Respectfully submitted,

/s/ Rob Riley
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Keith Jackson (ASB-7519-J66B)
Jay Murrill (ASB-4329-A57M)
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with the Clerk of the Court using the PACER system and served on counsel of record in this cause on November 28, 2011.

/s/ Jay Murrill
OF COUNSEL

MASTER SERVICE LIST

VIA E-MAIL:

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